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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement submitted by Pax Christi International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 March 1999]

GE.99-12035 (E)

New anti-dissent legislation in Cuba

1. Improved Church-State relations and increased religious freedom since the visit of Pope John Paul II to Cuba last year raised hopes that civil and political rights would be respected in Cuba, and democracy strengthened there. However, events in the second half of 1998 and in the first months of 1999 seem to have moved in the opposite direction.

2. In February 1999, the Cuban authorities opened the door to increased violations of civil and political human rights by adopting, in the National Assembly, the Law to Protect the National Independence and Economy of Cuba. The Law bans a broad range of activities, such as "the supply, search or gathering of information", and bans "the collaboration [...] with radio and television stations, newspapers, magazines and other mass media with the aim to contribute and facilitate the implementation of the Helms-Burton Law." Possessing, reproducing or distributing "subversive material" intended to support "the economic war against Cuba" can lead to imprisonment for up to 15 years.

3. The formulation of the Law is imprecise, ambiguous, and leaves much room to be arbitrarily applied. Any phone call or effort to gather information can be considered "subversive". There is a risk that the Law will be applied to activities of political opponents in general, and specifically to the independent journalist movement that in past years has increasingly contributed to a free flow of information in Cuba and between Cuba and the outside world. Furthermore, the fear also exists that the Law will be generally applied to any form of alternative and independent thinking in Cuban society. The Law seriously violates the right to freedom of the press, assembly, opinion and expression.

4. These and other similar steps of the Cuban Government show its contempt for the numerous requests by the international community to give a clear sign of its commitment to internationally recognized human rights law and to reform the Cuban Criminal Code accordingly.

United States policy

5. A significant factor that has contributed directly to the intransigence of the Cuban Government, and indirectly to the continuation of human rights violations by Cuban authorities, has been United States policy towards Cuba. The United States embargo, especially of food and medicine, has had tremendous impact in Cuba. It is a failed and unjust policy that has served as a scapegoat for the Cuban Government's own failures and, too often, as a pretext for repression. As long as tension between Cuba and the United States exists, dissidents within Cuba will suffer from the accusation that they work with "the enemy", or to contribute to its goals. The measures announced by the United States Government on 5 January 1999, which explicitly included financial support to Cuban independent NGOs, only weakened the position of those in opposition further, as the measures formed the perfect justification for the Cuban Government to adopt the above-mentioned anti-dissent law.

Continued repression and human rights violations

6. While during, and directly after, the visit of the Pope the situation was relatively quiet, in the second half of 1998, the Pax Christi movement frequently received information from independent sources in Cuba about harassment, imprisonment, social marginalization and physical violence (beatings) of opponents of the Government. The Criminal Code, even in its pre-February 1999 form, was used as a means to silence political dissent by charging opponents with, for example: "contempt for authority"; "dangerousness"; "enemy propaganda". The right to a fair trial is not guaranteed in Cuba, where the judiciary is directly controlled by the Communist Party. Sometimes, political opponents remain detained for prolonged periods (months or even years) without any charge or trial.

7. It is difficult to get a clear picture of the number of political prisoners in Cuba, since the authorities do not give access to the necessary data. Amnesty International currently estimates that there are at least 350 political prisoners, a number which has decreased in recent years, although still thought to be inexact. Following the visit of Pope John Paul II, Cuban authorities released about 300 prisoners, among them approximately 100 political prisoners. The Amnesty International list is based on the work of the Cuban Commission of Human Rights and National Reconciliation (CCDHRN) in Havana (among others).

8. While the decrease in political prisoners is apparently a positive development, Cuban human rights defenders see in it a change of strategy. The authorities increasingly rely on campaigns of short-term detentions as a means of silencing dissent. Recent examples are: the detentions stemming from the religious processions honouring the Virgen de la Caridad del Cobre in September 1998; the wave of arrests of independent journalists in January and February 1999; and the large-scale detention campaign of dissidents connected with the politically motivated trial of the four members of the Internal Dissidence Working Group on 1 March 1999. Part of the new strategy also seems to be the arrest of dissidents for economic and social crimes (theft, trading on the black market, etc.) while in fact the motivations are political.

Maltreatment of political prisoners

9. The Dutch section of Pax Christi has received information from different sources about the mistreatment of political prisoners, who are beaten, suffer malnutrition and are deprived of access to proper medical attention. Degrading ways of treating prisoners include: solitary confinement in cells as large as a coffin, attacks by hungry dogs without teeth, being exposed to prolonged periods of strong light, sleep deprivation, etc.

10. One example is political prisoner Jorge Luis García Pérez "Antúnez" (33 years old, and imprisoned in 1990 for 15 years in "Nieves Morejón", accused of "Enemy propaganda" and "sabotage"). In the beginning of 1999 he was brutally beaten to unconsciousness by prison officers. According to his sister Berta Antúnez, one of the officers at the prison stated that they were authorized to beat prisoners. Antúnez is in a very poor state of health as he is denied medical treatment for his injuries and for his illnesses (a kidney insufficiency, angina pectoris and hypoglycaemia). At the moment of writing,

Berta has been unable to give her brother the necessary medicines (source: transcript of a phone call from Berta Antúnez to the Directorio Revolucionario Democrático Cubano, Miami). These methods are clear violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by Cuba in 1995.

Reinstallation of a Special Rapporteur on Cuba

11. Pax Christi International recommends that the United Nations reinstate its Special Rapporteur on Cuba. The extremely limited access of human rights organizations to Cuba and the repression against human rights defenders in Cuba itself, mean that there are few human rights monitoring instruments available. In this sense the work of the former Special Rapporteur, Carl Groth, cannot be overestimated.

Best business practices for investors in Cuba

12. The Dutch section of Pax Christi organized, on 3 December 1998, a round table meeting on foreign investments and human and labour rights at the European Parliament. Among the participants were academic, trade union, private sector and human rights organizations, MEPs and representatives of the EC. The conclusion of the meeting was that, under the current circumstances, foreign investors (mainly from the European Union, Canada and Mexico) can be held jointly responsible for the human rights violations by the Cuban regime. The rights of Cuban workers in the "joint ventures" between foreign companies and the Cuban State are violated. In particular, ILO Convention Nos. 87 (freedom of assembly and right to organize) and 98 (right to organize and collective bargaining) are violated. The only trade union with legal status in Cuba is the CTC, which is controlled by the Communist Party. Independent trade unions are not recognized and are repressed.

13. Pax Christi International supports the introduction of a "best business practices approach" by foreign investors in Cuba, a voluntary application of international juridical standards (such as the ILO conventions) to the Cuban practice. At least, such an approach should include the recognition of independent trade unions in Cuba. Europeans, Americans, Canadians, the private sector, trade unions, NGOs and Governments, and multilateral institutions such as the United Nations, the ILO and the EU should cooperate on this issue.

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